Sectt. II-27—40,000—14-10-36.

Home (1937) Department.

MS SERIES.

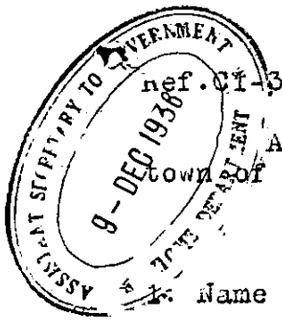
G.O. No. 1191.

DATED 22.3.37

[Despatch Abstract.]

Magistrates - Bench - Mangalore - The Rev. Krishna Kaye Karunakar appointed and granted first class powers Bench empowered to take cognizance of offences.

Home 21067
9.12.36.



nef.C1-3618-m/36.

Application for the appointment of a Bench Magistrate for the town of Mangalore in the district of South Kanara.

******

1. Name of town	Mangalore.
2. Name of the nominee in full.	Rev. Krishna Raya Karunakar.
3. His qualifications.	B.A., B.L., D.D. Not a practising lawyer. Not a municipal Councillor.
4. (1) Cause of vacancy or vacancies. (2) Name of existing incumbent, if any, and whether or not withdrawal of his powers is necessary. 5. Number and date of the notification appointing him.	By the termination of the period of appointment of M.R.Ry. J. S. Furtado Avl., who was appointed in G.O.No.h. 785 Law (Genl), dated 9.11.1933. No withdrawal of powers is necessary.
6. Remarks.	The nominee besides being a law graduate, is the Vice Principal of the local Theological Seminary of the Basel Evangelical Mission and a member of the District ---- Educational Council, Mangalore. He is willing to serve on the Bench. I recommend that he may be appointed. I propose to appoint him as an additional Vice President of the Court, which is necessary. I request that all the ----- ordinary powers of a Magistrate of the I Class may be conferred on him, and also powers to take cognizance under clauses (a) and (b) of section 190 (1) of the Code of Criminal Procedure of all the offences mentioned in section 260 of the Code arising within the limits of the jurisdiction of the I Class Bench, Mangalore.

S.Kanara Dt.Magistrate's Office,
Camp Udipi, 5th December 1936.

For Dt.Magistrate. 7.12.36

7.12.36.

To the Secretary to Government,
Home Department,
Madras.

Reminder. 2/ 2

C.F. 30.

HOME DEPARTMENT.

Received 22 JAN 1937 19 . Registered Home 3067 22.1.1937.

Subject.

Special Magistrates - Mangalore - Nomination of Rev. Krishna Raya Karunakar - Orders requested.

Application Ref.Cl.3618/M/36 dated 5-12-1936.

ENCLOSURES.
No.
Spare copies

~~No.~~

Station Mangalore, *Dated the* 19th January 1937.

From (Name) A. D. Crombie, Esquire, C.I.E., I.C.S.,
(Designation) District Magistrate of South Kanara.

To The Secretary to the Government of Madras,
Home Department,
MADRAS.

Sir,

I invite attention to the application referred to above and request that early orders may be passed thereon.

Your obedient servant,

20.1.37

For Dt. Magistrate.

20.1.37

3/ 3

C.F. 30.

HOME **DEPARTMENT.**

Received ASSISTANT SECTT. 12 FEB 1937 HOME DEPART. /19 . *Registered* Home 6137 12.2. /19

Subject.

Special Magistrates - Mangalore - Nomination of Rev. Krishna Raya Karunakar - Orders requested.

Application Ref.C.1-3618-M-36, dated 5-12-36 and Reminder dated 9-1-37.

ENCLOSURES.
No.
Spare copies

Ref.C.1 No. 3618-M-36.

Station Mangalore, *Dated the* 10th February 1937

From (Name) A. D. Crombie Esq., C.I.E., I.C.S.,
(Designation) District Magistrate of South Kanara.

To The Secretary to the Government of Madras,
HOME Department,
Madras.

Sir,

I invite attention to the references noted above and request that Government may be pleased to pass early orders. I enclose a copy of the application dated 5-12-36.

Your obedient servant,

For Dt. Magistrate.

10.2.37

Ref.C.1-3618-M-36. 4 4

Application for the appointment of a Bench Magistrate for the town of Mangalore in the district of South Kanara.

---

1. Name of town.	Mangalore.
2. Name of the nominee in full.	Rev. Krishna Raya Karunakar.
3. His qualifications.	B.A., B.L., D.D. Not a practising Lawyer. Not a Municipal Councillor.
4. (1) Cause of vacancy or vacancies.	———
(2) Name of existing incumbent, if any, and whether or not withdrawal of his powers is necessary.	By the termination of the period of appointment of H.R.Ry.S. Furtado Avl., who was appointed in G.O.No. R. 785, Law (General), dated 9-11-33. No withdrawal of powers is necessary.
5. Number and date of the notification appointing him.	
6. Remarks.	The nominee besides being a law -- graduate, is the Vice Principal of the local Theological Seminary of the Basel Evangelical Mission and a member of the District Educational Council, Mangalore. He is willing to serve on the Bench. I recommend that he may be appointed. I propose to appoint him as an additional Vice President of the Court, which is necessary. I request that all the ordinary powers of a Magistrate of the I Class may be conferred on him and also powers to take cognisance under clauses (a) and (b) of Section 190 (1) of the Code of Criminal Procedure of all the offences mentioned in Section 260 of the Code arising within the limits of the -- jurisdiction of the I Class Bench, Mangalore.

Station.- Mangalore,
Dated 5th Dec. 1936.

(Sd) A. D. Crombie,
District Magistrate.

To

The Secretary to Government,

Home Department,

M a d r a s.

True Copy.

10:2:37

For Dt.Magistrate.

10.2.37

2105F

Home Dept.

Memo M. 21057.3 dated 1.3.37

Magistrates - Bench - Mangalore - Nomination of the Reverend Krishna Raya Karunaka and grant of first class and Cognizance powers.

***

Ref: From the D.M.South Kanara, Ref.C.1. No.3618-M-36 dated 5-12-36, and 19-1-37 and 10.2.37

***

The D.M. South Kanara is informed that the matter is under consideration of Govt.

To the D.M.South Kanara.

Note:

The file referred to above was sent to Legal Dept. for scrutiny of the draft notifications. That Dept. returned the file for further information with regard to the scope of the draft notifications. The file has been separately submitted to A.S. As it is doubtful that orders will be issued very shortly, the D.M. may be informed that the matter is still under consideration. A draft Memo is submitted for approval.

6 6

Home Dept.
(F)

C.No.2106F

From the D.M. South Kanara, C.1.3618-M-36 dated 5-12-3

***

Magistrates - Bench - Mangalore - Appointment of the Rev.Krishna Raya Karunakar and investiture with first class and cognizance powers.

***

A.S:

The term of appointment of M.R.Ry.S.Furtado as a Spl. Magistrate, Mangalore Bench, expired on 8-11-36. The D.M. has now forwarded proposals for the appointment of the Rev.Krishna Raya Karunakar in the vacancy. He also requests that his nominee may be invested with first class and cognizance powers as it is proposed to appoint him as an Additional Vice-President. G.O.No. 1729 Judl. dated 14-8-1914 lays down that first class Benches, should, as a rule, be presided over by retire Sub Judges, first class Magistrates or Dist. Munsifs. Though these orders were relaxed in G.O.No.1793 Home (Judl) dated 7-8-1918, the intention of the Govt. is that the orders should not be departed from save in exceptional circumstances. In cases of appointment of Presidents, it has been the practice to ask the D.M. if retired officers of the rank of Sub Judges, First class Magistrates or Dist. Munsifs are not available to be invested with first class powers. If, ~~however~~, the D.M. reports that no such persons are available, then only his nominee is appointed. In this case the nominee is to be only an Addl.Vide President. It does not seem necessary to make the enquiry referred to above in this case. For orders.

(*The D.M's nominee is a B.A.,B.L.,D.D.,)

2. It is seen from the D.M's letter that the Rev. Krishna Raya Karunakar is the Vice Principal of the local Theological Seminary of the Basel Evangelical Mission. The D.M. has not stated whether the consent of the Mission authorities has been obtained to appoint his nominee as a Spl. Magistrate. The D.M. may be

asked to state whether such consent has been obtained, and if not, to obtain it and report the matter to Govt.

A draft Memo is submitted for approval.

17-12-36.
19.12.

It is stated that the nominee might also practise longer. He is Vice Principal of the local theological Seminary of S. I. Mission. There seems to be no objn to his appt.

Draft memo for appl

19/12

S

Now as we are concerned with the consent of the seminary

Submitted that it is usual for the District Magistrates to obtain the consent of the authorities concerned before recommending employees of any Mission, District Board etc., for the post of Spl. Magistrates and report the fact to Government along with their recommendations. In cases where the Dist. Magistrates fail to do so, it has generally been the practice to ask the D.M. concerned to obtain the necessary consent--(Vide G.Os. noted on the margin). In this connection attention is

Vide-p.1 of G.O No 944 dt 6-11-36 (G)
p.1 of G.O.No. 258 dt 29-5-36 (FF)
p.4 of G.O.No. 2274 dt 18-12-34 (V)
p.3 of G.O.No 3652 dt (B)

-3- 8/ 8/

(H)

invited to G.O.No.1654 Home, dated 5-8-36. It will be observed ~~therein~~ that the D.M. Ramnad had to withdraw his recommendation as the Bishop's Commissionary, Palamcottah was of opinion that the appointment of M.R.Ry. Swaminatham Bhogyam Avl., (the Dist. Magistrate's nominee) as Special Magistrate would interfere with his school duties as he was the Manager as well as Headmaster of the School.

Submitted for orders.

5.1.37

6-1-37

8/1

S

A. I do not see that we can concern - it is for the individual to get the consent of his employer

B. We are not aware that it is customary in other cases to get the consent of the firm which employs any other individual who is to be appointed. Is that so?

8/1

(N)

Secy's remarks at 'B' above:

Attention is invited to G.O.No.Rt.642 dated 7-9-33 from which it will be observed that the D.M. Guntur first recommended the appointment of one Janab Abdul Baseeth Saheb, Hd.Ticket Collector at Tenali Ry. station, as Bench Magistrate at Tenali. Govt. asked the D.M. to say whether his

nominee would find sufficient time to attend the sittings of the Bench court at Tenali and whether the Railway authorities had agreed to the proposal. The D.M. while replying that the Ry. authorities had no objection to Mr.Abdul Baseeth serving as a Bench Magistrate provided that his railway duties were not interfered with, was of the opinion that these appointments could not be made subject to any such conditions and recommended another person for the post. The Government agreed with the Dist. Magistrate.

Attention is invited to the linked file below in which the D.M. Chingleput recommended the appointment of an employee in the M.& S.M.Ry. for appointment as a Spl. Magistrate at Sembiam. The D.M. was asked to report to Govt. whether the Company agree to the appointment of his nominee as a Spl. Magistrate. After consulting the Co., the D.M. has now reported that the Co., do not agree to such appointment and has recommended some other person for the post.

Cases in wnich employees of firms have been appointed as Spl. Magistrates are not readily traceable.

~~With reference to Secy's remarks at 'A' on page 3 ante~~, Submitted for orders whether the draft Memo put up need not be issued.

No necessity for it. Issue

10 10

A.S:

The D.M. South Kanara recommends that the Rev. Krishna Raya Karunakar may be appointed as a I class Spl. Magistrate and empowered to take cognizance of offences under clauses (a) and (b) of sub-section (1) of Sec.190 Cr.P.C. of all the offences specified in Section 260 of the Code arising within the limits of the jurisdiction of the Mangalore Bench. In G.O.No. 116 (Home) dated 10-1-37 it has been ordered that powers to take cognizance of cases should be conferred only on the Bench of Magistrates and not on the individual Magistrates. A draft order in accordance with the instructions contained in this G.O. is put up. As this is the first case of the kind after the issue of the G.O. referred to above, the Legal Dept. may ~~perhaps see~~ be requested to scrutinise the draft notification ~~before issue~~.

h/q

(P)

To proceed [illegible]

25-1-37
P&R
30-1-37

24-
4/2
Legal

Home 210571
5-2-37

Legal Dept

Will Home please put up the original of G.O. No 116. Home. Dt 10-1-37 and oblige?

K. VR.
6/2/37

Home No.

DEPARTMENT
651
8-FEB 1937

DEPARTMENT
862
13 FEB 1937

Legal 1665 DEPARTMENT
8/2/37

Home Dept.

A.S:

Original of G.O. No. 116 Home Dated 10.1.37 is put up. The file may be sent to Legal Dept.

ASSISTANT SECRETARY TO GOVERNMENT
8-FEB 1937

Home 210571
13-2-37

Home 5497
8.2.37

8.2.37
P&R
11-2-37

24
12/2
Legal

11/

~~6~~ 11

LEGAL DEPARTMENT.

Draft Notification I refers to certain offences while Draft Notification II refers to quite another category of offences.

In so far as offences comprised in both the drafts are concerned, there is no difficulty. But the position is not clear in regard to (i) offences comprised in Draft I but not in Draft II and (ii) offences not comprised in Draft I but comprised in Draft II. Will Home Department kindly consider this and say what exactly the intention is?

K.M.
13/2/37

Home Dept

Legal 65/1

Home Dept.

Home 6557
15-2-37

A.S:

Please see Legal Dept. note above. The proposal of the D.M. South Kanara is that the Reverend Krishna Raya Karunakar should have the powers of a first class Bench magistrate with powers to take cognizance under clauses (a) and (b) of sub-section (1) of Section 190 of the ~~said~~ Cr.P.C. of all the offences mentioned in section 260 of the Code arising within the limits of the jurisdiction of the I class Bench, Mangalore. But under the orders issued in G.O.No.116 Home dated 10th Jany. 1937 powers to take cognizance of offences should be conferred on the Bench as a whole and not on individual magistrates. The intention is therefore to confer all the ordinary powers of a magistrate of the first class on the

I declare

Individual for the trial of the offences specified in section 260 of the Code of Criminal Procedure and to empower the Bench of Magistrates to take cognizance under clauses (a) and (b) of sub-section (1) of section 190 of the Code of all those offences arising within the limits of the jurisdiction of the Bench established at Mangalore.

The file may bs sent to Legal.Dept.

PGK 17.3. JK 17/3

Legal

Home 21057-5 17.3.37

Legal Department

1521 17 MAR 1937 LEGAL DEPARTMENT

The alterations indicated in red ink on the draft notifications may be made.

K.M. 17/3

K.M. 18/3/37

Legal 1521-1 19-3-37.

Home

PG 20/3 S

ASSISTANT SECRETARY TO GOVERNMENT 19 MAR 1937 HOME DEPARTMENT

Home 10697 19.3.37.

A.S:

~~The draft notifications have been suitably altered by the Legal Dept. For orders whether the draft order with the notifications annexed to it may issue.~~ Submit that the Draft as amended by Legal may issue

19.3.37

PGK 19.3.37

JK 20/3

S

WD

Home Dept.

C.F.17.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined..		
When signed ..		
When despatched.		

SUBJECT:—

Magistrates - Bench - Mangalore - The Rev. Krishna Raya Karunakar Appointed and granted first class ~~and cognizance~~ powers — Bench empowered to take cognizance of offences.

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO*:—

No. 2106F From the D.M.South Kanara, No. 3618-M/36 Ref.C.1. dated 5-12-1936.

" _____ " _____ 19____.

" _____ " _____ 19____.

Order / Resolution Ms. No. 1191, dated 22-3-1937.

The notifications appended to this order will be published in the Fort St. George Gazette:

2. The attention of the Special Magistrate is invited to the Law(Genera Dept. Notification No.820, dated the 26th November 1925, published at page 2258 of Part I of the Fort St. George Gazette, dated the 1st December 1925 and he is informed that his appointment as a Special Magistrate will be tenable for a period of three years from the date of this order.

Dpd.

Dpr.'s

Date

To the D.M.South Kanara with Notfns.I & II
To the S.G.P.for publication of Notfns.
To the Rev. Krishna Raya Karunakar with Notfns.I & II thr' the D.M.South Kanara.

[P.T.O.]

14

ANNEXURE

I

Notifications

In exercise of the powers conferred by sub-section (1) of section 14 of the Code of Criminal Procedure, 1898 (V of 1898) the Governor in Council is hereby pleased to confer on the Reverend Krishna Raya Karunakar,

all the ordinary powers of a Magistrate of the first class and to direct that he shall sit as a member of the Bench of Magistrates established at Mangalore in the district of South Kanara for the trial of the offences specified in section 260 of the said Code ~~[items (1) to (8) of rule 1 of the rules in Home (Judicial) Department Notification No. 737, dated the 13th August 1910, published at pages 1041 and 1041 of Part I of the Fort St. George Gazette, dated the 30th August 1910, as subsequently amended]~~ arising within the limits of the jurisdiction of the Bench.

II

In exercise of the powers conferred by sub-section (1) of section 15 of the Code of Criminal Procedure, 1898 (V of 1898), the Governor in Council is hereby pleased to empower the Bench of Magistrates established at Mangalore in the district of South Kanara to take cognizance under clauses (a) and (b) of sub-section (1) of section 190 of the said Code, of the offences specified in section 260 of the said Code and arising within the limits of the jurisdiction of the Bench.

28.1.37.

30.1.37